

Judge Barnes, cont.

the Regional Director's Citation in 1989 and 1998 for innovative and effective child support enforcement from the U.S. Department of Health and Human Services, and in 1995 received the State Director's Award for Outstanding Child Support Program from the Indiana Family & Social Services Administration.

While Prosecutor, Judge Barnes was elected President of the National District Attorneys Association (1995-1996), Chairman of the Board, Indiana Prosecuting Attorneys Council (1982-1983, 1992-1993), President of the St. Joseph County Bar Association (1992-1993), National Board of Trial Advocacy (1995-1996), National Advisory Council on Violence Against Women (1997), Chair-

man of the Board of Regents, National College of District Attorneys (1997-1998), American Prosecutor's Research Institute (1997-1998), and various other professional and civic organizations.

The Indiana Victim Assistance Network honored him with its Special Advocate Award in 1989, and in 1998 he received the Eugene "Shine" Feller Award from the Indiana Prosecuting Attorneys Council.

Judge Barnes supports a wide range of community organizations, especially those that serve vulnerable populations. He is a longtime supporter of the LOGAN Center's annual Nose-On campaign and in 1986 received its Joseph J. Newman Award for Committed and Outstanding Advocacy on Behalf of De-

velopmentally Disabled Individuals.

He also has served on the boards of the St. Joseph County Chapter of the American Cancer Society and the Alcoholism Council of St. Joseph County.

Judge Barnes is a member of the Indiana Bar Foundation, the St. Joseph County Bar Association, the Indiana State Bar Association, and the Illinois State Bar Association.

Judge Barnes is married to Alberta Barnes, a retired educator. They are the parents of two sons, Tim and John. Tim is an attorney in Washington, D.C. John is a TV producer at NBC Sports. John and his wife, Bess, are the parents of the world's most perfect granddaughter, Addison Emily.

He lives in South Bend and is an avid baseball fan and reader.

Judge Vaidik, cont.

range of honors including the 1996 Indiana Domestic Violence Coalition Judge of the Year and the 1997 Indiana Judges Association Special Merit Award.

Judge Vaidik was appointed to the Court of Appeals in February 2000 by Governor Frank O'Bannon and was retained by election in 2002 and 2012. Because Judge Vaidik sees the Court of Appeals at the intersection of theoretical and practical law, she believes the Court should embody the highest degree of fairness and impartiality.

This view informs her passion for teaching, as she feels that Hoosiers, and all litigants, deserve the finest possible legal advocates on their behalf. Judge Vaidik also believes that legal writing must be distinguished by logical construction and clear, explanatory prose.

She is an adjunct professor at the Indiana University Maurer School of Law and won its 2011 Adjunct Professor of

the Year Award. She has served as a visiting professor at the College of Law of England and Wales and taught as an adjunct professor at Valparaiso University Law School. She has taught at many law schools and for a number of organizations including the Indiana State Bar Association, the Indiana Legal Education Forum, and the Indiana Judicial Center.

Judge Vaidik has trained lawyers involved in prosecuting Rwandan war crimes, Mexican lawyers prosecuting drug lords, and solicitor advocates seeking the rights of audience in the High Courts in Belfast, Northern Ireland. She is particularly proud of her long association with the National Institute of Trial Advocacy, which honored her with its 2007 Robert Keeton Faculty Award.

Despite her Court of Appeals caseload and her teaching, Judge Vaidik is also actively involved in a wide variety of community, legal, and judicial organi-

zations. She served on the State of Indiana Children's Peak Performance Commission and has held many posts with the Indiana Judges Association and Indiana Judicial Center. She has been chairperson of the Judicial Education and Community Relations Committees of the Indiana Judicial Center and is a member of the American Bar Association, Indiana State Bar Association, and Sagamore Inns of Court.

She has received many other awards and honors including the 2004 Indiana State Bar Association's Women in Law Achievement Award, the 2007 Indiana Lawyer Distinguished Barrister Award, the 2003 Paragon of Justice Award from Valparaiso University Law School, and the Sagamore of the Wabash Award from two Indiana governors.

Judge Vaidik and her husband are the proud parents of twin daughters, one a medical doctor and one a lawyer, and they have two grandsons, who can choose either profession.

Judge Crone, cont.

Court by election in 2006. He is married and has three daughters – a practicing attorney, an anesthesiologist and a doctor of psychology.



Appellee's Attorney, cont.

ronmental issues and his involvement in "lake litigation" has been significant. He has participated in over 50 appeals in the Indiana Appellate Courts and in the 7th Circuit Court of Appeals.

Steve is admitted to practice before the Indiana Supreme Court, Federal District Courts in the Northern and Southern Districts of Indiana and the 7th Circuit Court of Appeals.

With his wife he resides on Lake Wawasee and enjoys the myriad activities that accompany lake living."

Why Appeals on Wheels?

Appeals on Wheels shines a light on the real-world legal issues that Appeals Court judges must decide.

Audiences also get to observe skilled legal arguments and advocacy by some of Indiana's best lawyers, against a backdrop of case-specific facts and statutory and constitutional law.

Today's argument is the Court's 12th Appeals on Wheels event this year.

SYNOPSIS

In 2000, childhood friends Craig Neibert and Jody Perdomo began a romantic relationship. At the time, Perdomo was working as a hairstylist in Florida, and Neibert was working construction in Indiana. In 2001, Perdomo and her daughter relocated to Indiana and moved in with Neibert and his daughter. The couple eventually fixed up Perdomo's Florida home for sale. In 2003, Neibert bought Perdomo a commitment ring.

Later that year, Perdomo's father passed away and left her his house and some farmland. Late in 2003, Perdomo and Neibert began renovating her father's house, which had been deemed uninhabitable and uninsurable. Perdomo paid for most of the materials, and Neibert provided the labor.

The house more than doubled in value and was listed for sale. When a sale was not consummated, Perdomo leased the house. She did not share the rental proceeds with Neibert.

In 2006, the couple decided to build a new house on Perdomo's inherited farmland. The five-year project required excavation and construction work, which Neibert performed. In year two, the couple moved in and continued to work on the project. In the ensuing years, the relationship soured and Perdomo returned Neibert's ring.

Meanwhile, Neibert continued to reside with Perdomo in the partially finished home and to work on the project. In year five, with the house nearly finished, the couple broke up and Neibert moved out.

Neibert filed an unjust enrichment and implied contract action against Perdomo, seeking damages for the labor, equipment and materials he provided in renovating her father's house and constructing the new house. He also sought replevin for certain personal property items in Perdomo's possession.

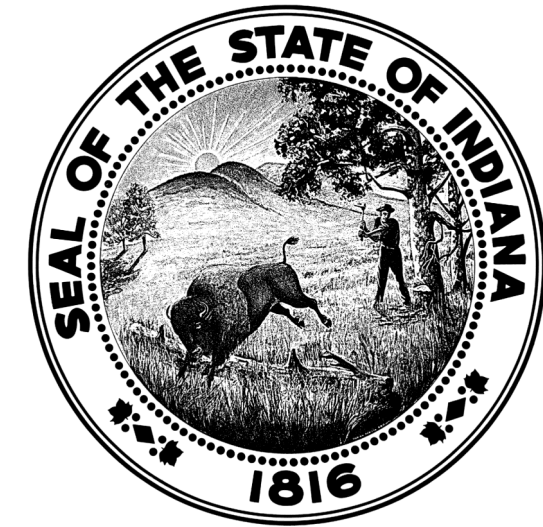
Perdomo filed a counterclaim for unjust enrichment for the time that Neibert lived rent-free in the new house. The matter was set for a bench trial.

Near the close of his case in chief, Neibert stated his intent to call Perdomo as a witness but asked to proceed out of order in the interest of efficiency

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Court of Appeals of Indiana

*Hearing oral argument at
Valparaiso University Law School
Friday, April 15, 2016 @ 1 p.m.*



Neibert v. Perdomo

43A03-1503-CC-99

*On Appeal from Kosciusko Superior Court
The Honorable Joe V. Sutton, Judge*

Indiana Bicentennial 1816-2016



Porter County jail and sheriff's home, Valparaiso

Built in 1871, the old Porter County jail and sheriff's home form a joint structure consisting of an Italianate-style home and Castle-style jail. Stone for both structures was quarried in Joliet, IL., as noted on the weathered cornerstone. The jail walls are 19 inches thick, including the stone exterior and brick-and-plaster interior. The combined structures reflect a practical approach to law enforcement that was common in Indiana at the time: The sheriff was on duty 24/7 while his wife served as the jail's cook and matron. Notable architectural features of the sheriff's home include double-round arched windows and pressed-tin brackets and eave moldings. The interior features a walnut balustrade and arched white fireplaces, made of marble, in each first-floor room. The jail has two square and two round towers, but only the square towers are functional.

Source: National Register of Historic Places

Synopsis, cont.

and examine her during her presentation of evidence. The trial court said, "Okay it is your call," and passed the case to Perdomo, who immediately moved for involuntary dismissal of Neibert's contractual claims pursuant to Indiana Trial Rule 41(B). The trial court ultimately issued a half-page interlocutory order granting Perdomo's Rule 41(B) motion and dismissing Neibert's contractual claims. Neibert sought and was granted certification of the interlocutory order for appeal in this Court. We now examine the following procedural and substantive issues: (1) the

threshold issue of whether the trial court acted prematurely in granting Perdomo's Rule 41(B) motion before Neibert had rested his case; (2) whether the trial court abused its discretion in excluding Neibert's expert witness's report on the value of services rendered; (3) whether Neibert presented evidence sufficient to survive involuntary dismissal, particularly within the context of a cohabitation relationship; (4) whether Neibert properly requested findings of fact and conclusions thereon; and, if so, (5) whether the trial court's findings were sufficient. The parties agree that remand is appropriate to litigate Neibert's replevin claim and Perdomo's counterclaim.

Attorneys for the Parties

For the Appellant

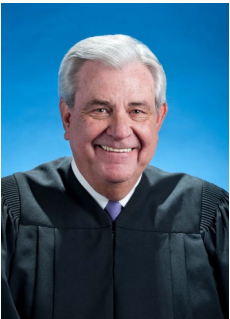
Margaret (Meg) Christensen grew up in Columbus, IN. She graduated *cum laude* from DePauw University, after majoring in communication with minors in Spanish and economics and participating in the Media Fellow Program. Meg earned her J.D. from Indiana University Maurer School of law in 2007. Meg joined Bingham Greenebaum Doll in 2007 and concentrates her practice in business litigation, attorney ethics, appeals, construction law and media law. Meg was recognized by the Indiana Lawyer Leadership in the Law Awards as an "Up and Coming Lawyer" in 2012. She is an active member of the Indianapolis Bar Association and served on the Indianapolis Bar Association's Women in the Law Division Executive Committee through 2014 and the Bar Leader Series Steering Committee through 2014. She is also involved with several community and political organizations, including the Women's Fund. Her past service includes sitting on the board of directors of Trusted Mentors, Inc., an organization that provides mentoring to individuals at risk of homelessness, from 2007-2013, serving as board chair from 2010-2013 and sitting on the Indianapolis Public School Budget Committee. Meg is admitted to practice in the Indiana Supreme Court, the United States Supreme Court, the Seventh U.S. Circuit Court of Appeals, and the U.S. District Courts for the Northern and Southern Districts of Indiana. Meg lives in Indianapolis with her husband, Adam, their two young children, and their great Pyrenees.

For the Appellee

Steve Snyder began his practice with Beckman Lawson in Fort Wayne in 1971. He has practiced in Syracuse, Indiana with Beckman Lawson and with Snyder Morgan, LLP since 1974. He received his undergraduate degree in 1969 from Valparaiso University and his JD degree in 1971 from Valparaiso University Law School. Steve's practice involves civil litigation, real estate, development and envi-

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Today's Panel of Judges



The Honorable Michael P. Barnes
St. Joseph County

Michael P. Barnes was appointed to the Court of Appeals of Indiana in May 2000 after long service as the St. Joseph County Prosecuting Attorney. He was retained on the Court by election in 2002 and 2012 and served as Presiding Judge of the 3rd District from 2009 through 2011. In 2012 he wrote 144 majority opinions for the Court of Appeals. Judge Barnes was born and raised in rural Illinois. He earned a B.A. in History at St. Ambrose College in Davenport, IA in 1970 and received his J.D. in 1973 from the University of Notre Dame Law School. He practiced law from 1973-78 at the South Bend law firm of Voor, Jackson, McMichael and Allen, while also serving as Deputy Prosecuting Attorney. Voters chose him in 1978 to be the St. Joseph County Prosecuting Attorney, an office he held for 20 years over five elections. While prosecutor, he oversaw a staff of 65 and spearheaded development of the CASIE Center for child victims of physical and/or sexual abuse, which continues to serve the community. Judge Barnes also created a domestic and family violence unit in the Prosecutor's office and launched a pretrial diversion program for nonviolent misdemeanor offenders that served as a model for successful state legislation. The domestic and family violence unit focused solely on crimes against women and children, including abuse and neglect. Judge Barnes personally tried more than 25 murder and other major felony cases while overseeing a staff of 12 to 15 deputy prosecutors. His efforts to collect delinquent child support payments garnered more than \$100 million for children in St. Joseph County. For those efforts, he received

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The Honorable Nancy H. Vaidik
Porter County

Nancy H. Vaidik is a judge and a teacher with broad experience in both trial and appellate courts and in legal classrooms. She has an expertise in trial advocacy and appellate advocacy, with a strong background in the rules of evidence and legal mediation. Judge Vaidik was selected by her colleagues as **chief judge** of the Court of Appeals for a three-year term beginning Jan. 1, 2014. Judge Vaidik grew up in Portage, Indiana, and is a sixth-generation Hoosier who retains strong ties to her home town. She graduated with high distinction from Valparaiso University in 1977, with a double major in political science and psychology, and then studied at Valparaiso University Law School, where she earned her Juris Doctor in 1980. Her early years as deputy and then chief deputy Porter County prosecutor provided the grounding for her judicial career. As an attorney, she tried over seventy-five jury trials and founded the Porter County Victims Assistance Unit, the Porter County Sexual Assault Recovery Project, the Domestic Violence Service, and the Valparaiso University Law School Mediation Clinic. She also served on the Porter County Community Corrections Board and led a countywide task force that spearheaded the eventual construction of a new county jail. After serving as a prosecutor, she went into private practice and specialized in domestic relations, probate, municipal law, and general litigation. She represented Caring Place, Inc., a shelter for battered women in Valparaiso. From 1992 to 2000, she served as the judge of the Porter Superior Court. During her tenure on the trial court, Judge Vaidik was awarded a wide

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The Honorable Terry A. Crone
St. Joseph County

Terry A. Crone was appointed to the Court of Appeals March 8, 2004 by Governor Joseph E. Kernan. Judge Crone was raised in South Bend. He graduated cum laude from DePauw University with a double major in political science and history in 1974 and graduated from Notre Dame Law School in 1977. Judge Crone practiced law for nine years, concentrating in areas of civil practice, and served as the St. Joseph County Attorney from 1981 to 1986. In 1986, he was appointed Magistrate of the St. Joseph Circuit Court, where he served until his appointment as Judge of the St. Joseph Circuit Court in 1989. Judge Crone is a past President of the St. Joseph County Bar Association and a former member of the Board of Managers of the Indiana Judges Association, the Supreme Court Committee on Character and Fitness, and the Alternative Dispute Resolution Committee of the Indiana Judicial Conference. Judge Crone is a past Chair of the Appellate Practice Section of the Indiana State Bar Association and is a member of the St. Joseph County, Indianapolis, Marion County, Indiana State and American Bar Associations, the American Judicature Society, and the Phi Delta Phi Honorary Legal Society. Judge Crone is a frequent speaker at legal education programs. He helped found a program in South Bend to familiarize minority high school students with the law and related fields and was a founding member of the South Bend Commission on the Status of African-American Males and the St. Joseph County Coalition Against Drugs. As Circuit Court judge, he also initiated the first Spanish-speaking program for public defenders in St. Joseph County. Judge Crone was retained on the

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